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No.

In the

Supreme Court of the United States

ABDUL AZIZ,

Petitioner,

v.

SAINT MARTINS' COLLEGE

Respondent.

On the petition for a writ of certiorari
to the United States Court of Appeals
for the Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

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3 TP

QUESTIONS PRESENTED

1. Whether "qualifications" as used in the Title VII of Civil Right Act of 1964, and the ADEA of 1967, as amended, are a genuine issue.

2. Whether the defendant has violated the Title VII of Civil Rights Act of 1964, as amended.

3. Whether, for hiring discriminations, a further amendment will strengthen the Title VII of Civil Rights Act of 1964, as amended. The further amendment should read as follows:

"Qualifications in hiring discrimination are a genuine issue and as such hiring discrimination complaints shall not be dismissed by summary judgments, or qualifications must be precluded." Both mean the same.

4. Whether courts lack necessary qualifications to evaluate the qualifications of the candidates. If it is so found then the following amendment should be adopted.

"In those employment hiring discrimination complaints where courts lack necessary qualifications to evaluate the qualifications of the candidates, the complaints shall not be demised by summary judgments. They must be submitted to a jury trial". Both mean the same.

5. Whether, for hiring discriminations, another further amendment is feasible or needed to the existing 1993 Supreme Court Opinion shown below:

There are two **methods** by which a plaintiff can

attempt to prove potential discrimination. First, plaintiff may present **direct evidence** of employment discrimination. Second, the plaintiff can rely on the three stage order of proof and presumptions and satisfy his burden of proof using circumstantial evidence. *St. Mary's Honor Ctr. v. Hicks* 509 US 502, 506-12, 113 S. Ct. 2742

6. Whether the district court has applied the applicable laws to adjudicate the case.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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TABLE OF AUTHORITIES

Coordinates of authorities are given below in parenthesis. First digits are page numbers, second digits are line numbers. Example is (3 14) is page 3, line 14.

Authorities are cited in bold faces:

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1. Title VII of Civil Rights Act of 1964, as amended: (i 1), (i 4), (i 7), (1 24), (2 22), (4 1), (4 4), (5 11), (5 13), (5 21), (6 24), (7 14), (8 26), (9 14), (10 2), (10 16), (17 13)

2. ADEA of 1967: (i 2), (2 23, (4 8), (4. 18), (6 26), (8 23), (10 3),

3. Rule 56(c): (3 8), (3 9), (4 4), (4 13), (4 14), (4 15), (4 20), (5 1), (5 1), (5 2), (5 13), (6 3), (6 4), (6 15), (6 33), (8 15), (8 15), (8 21), (8 22), (9 15), (10 6), (10 7), (10 8), (10 14), (10 15), (12 9), (12 19), (12 20), (13 7), (13 22), (13 23), (14 14), (14 24), (14 25), (15 11), (15 12)

4. Supreme Court Opinion, Conley v.Gibson 355 US41 (1957): (6 8).

5. Supreme Court Opinion on St. Mary's Hon. Ctr. v. Hicks 509 US 502, 506-512, 113 S. Ct. 2742 (1973): (ii 3), (6 10)

6. Anderson, 477 US at 248: (10 8).

7. Inland Oil v. United States: 600 F. 2d 725 (8th Circle.

979): (10 16)

8. Id at 255: (10 28)

9. Schrob v. Catterson: 948 F. 2d 1405 (3rd Cir. 1991) (11 25)

10. Markowitch v. Northwest Land Co.: 906 , F, 2d 100, (3rd Cir. 1991) (14 5).

11. Counts v. M. K. Ferguson Co.: 862 F. 2d 1338 (12 13)

12. Ransom v. Marrazzo,: 848 F. 2d 398, 401 (3rd Cir. 1988. (13 21).

13. St. Mary's Honor Ctr. v. Hicks 509 US 502, 506-12. 113 S. Ct. 2742. (ii 6), (8 22), (17 11)

14. Holloway v. Lockhart, 813 F.2d 874 (8th Cir. 1987) (9 25)

15. Supreme Court Opinion on FRCP 56(c): (13 9),

In The
SUPREME COURT OF THE UNITED STATES

Abdul Aziz, *Petitioner,*

v.

SAINT MARTIN'S COLLEGE
Respondent.

I. PETITION FOR WRIT OF CERTIORARI

Petitioner, Abdul Aziz, petitions this court to grant a writ of certiorari to review the judgment of the United States Court of Appeals & of the District Court.

II. OPINIONS BELOW:

None published. Appeals Court decision affirming district court order is in exh._1_, page 1a.

III. JURISDICTION:

1. The final judgment to be reviewed is the appeals court decision, exh._1_, January 25, 2000,

Jurisdiction is conferred upon the Supreme Court by Rule 10 (c), which says "a United States Court of Appeals has decided an important question of federal law that has not been, but should be settled by this court," **and** "has decided an important federal question in a way that conflicts with relevant decision of this court."

3. And jurisdiction is conferred upon the Supreme Court by federal law, **Title VII of Civil Rights Act of 1964, as**

amended, that has not been decided, but should be settled by this court.

Title VII of Civil Rights Act of 1964, as amended, says:

It shall be unlawful for an employer to refuse or fail to hire an individual, despite his/her qualifications, or otherwise to discriminate an individual because the individual belongs to the protected group by virtue of his/her age.

IV. ABSTRACT

The law, Title VII of Civil Rights Act of 1964, as amended says: **"if a plaintiff belongs to the protected group and is better qualified, employer shall not refuse or fail to hire him.** I belong to a protected group and I was better qualified. Yet, the employer failed to hire me. Therefore, I was unlawfully discriminated.

V. STATEMENT OF THE CASE

In response to an advertisement, for a faculty position by the respondent, the petitioner applied. But he was not hired. Petitioner filed a suit in the federal district court pursuant to Title VII of Civil Rights Act of 1964, as amended. The district court dismissed the case by summary judgment. The appellate court affirmed the case by summary judgment.

VI. STATEMENT OF THE ISSUES

1. The district court could not have dismissed my complaint if the employer had not committed

(i) Breach of contract
(ii) Obstruction of justice
(iii) Concealment of truth

(iv) Perjury and
(v) fraud.

So, I filed a motion for relief of judgment or order pursuant to Rule 60(b)(6). Breach of contract, obstruction of justice, concealment of truth, perjury and fraud are the "other reasons" referred to in Rule 60(b)(6).

My motion was dismissed by summary judgment by the district court and affirmed by the appellate court, exh._1_.

VII. PROOF OF THE ISSUES

A. Breach of contract and fraud.

The employer advertised four application requirements, exh._3_. and while I met all the application requirements, selectee did not. Yet, the employer accepted his application to evaluate the qualifications of the candidates for selection. This is a serious breach of contract. The employer should not have accepted seletee's application. This is a fraud because the employer has changed the rules of the game such that it wins. The rules were that the applicant must meet all the four application requirements.The employer changed this rule.

B. Obstruction of Justice and concealment of truth.

Employer sent me a letter of acknowledgment, exh. _4_, a vital document. During discovery, I requested a copy of the selectee's acknowledgment letter and transcripts. I was given none of them after repeated requests by me and the EEOC. This is an obstruction of justice and concealment of truth.

My charge: Had the employer not committed the above unlawful actions, it could not refuse to hire me.

VIII. ARGUMENTS TO THE QUESTIONS PRESENTED

1. Whether "qualifications" as used in the Title VII of Civil Rights Act of 1964 and the ADEA of 1967, as amended, are a genuine issue.

Title VII of Civil Rights Act of 1964, as amended, says:

It shall be unlawful for an employer to refuse or fail to hire an individual, despite his/her **qualifications,** or otherwise to discriminate an individual because the individual belongs to the protected group by virtue of his/her age, race, national origin and religion.

In the above law "**qualification**" is an issue. Since" qualification" is an issue by law, it is a **genuine issue.** Also this issue, as a genuine issue, is in conformity with the genuine issues referred to in Rule 56(c) and in Supreme Court's opinion **on** Rule 56(c).

Rule 56(c) says:

The judgment shall be rendered forthwith, if the pleadings, depositions, and answers to interrogatories, and the admissions on files, together with affidavits, if any, show that there is no **genuine issue** as to any material fact as a matter of law, and that the party is entitled to a judgment as a matter of law.

And the Supreme Court Opinion on Rule 56(c) says:

The plain language of Rule 56(c) mandates the entry of summary judgement, after adequate time for discovery and upon motion, against a party who ails to make sufficient showing to

establish the existence of an element essential to that party's case and on which that party will bear the burden of proof at trial. In such a situation, there can be '**no genuine issue** as to any material fact'. **So, qualifications is genuine issue.**

According to Rule 56(c) substantiated by the Supreme Court Opinion, a defendant shall be awarded a summary judgment in its favor if there is no **genuine issue.** Since **qualification is a genuine issue** the defendant could not be awarded the summary judgment as a matter of law. But it was.

2. Whether the defendant violated Title VII of Civil Rights Act of 1964, as amended.

Title VII of Civil Rights Act of 1964, as amended, says: "It shall be unlawful for an employer to refuse or fail to hire an individual, despite his/her **qualifications,** otherwise to discriminate an individual because the individual belongs to a protected group."

In the comparison of qualifications, exh._7_, it has been indisputably shown that I was better qualified. And my resume shows that I belong to a protected group.**Therefore,** according to the above law, the employer has discriminated against me in violation of Civil Rights Act of 1964, as amended.

The defendant did not contest that I was better qualified and that I belonged to the protected group by virtue of my age. Therefore, I cannot legitimate how the lower courts did not find that I was discriminated against. I hope that for the good of America the Supreme Court will consider this question. This question is not only a question raised in this complaint but in all other complaints. It has become a pattern. The Honorable Supreme Court must stop this

pattern, otherwise racial discriminations will never be eliminated from America.

Rule 56(c) is a guidance for summary judgments to plaintiffs, defendants, attorneys and courts. Rule 56)c) says:

> The judgment shall be rendered forthwith, if the pleadings, depositions, and answers to interrogatories, and the admissions on files, together with affidavits, if any, show that there is no genuine issue as to any material fact as a matter of law, and that the party is entitled to a judgment as a matter of law.

This rule from the Federal Rules of Civil Procedure has been supported and further clarified by the Supreme Curt which says:

> The plain language of Rule 56(c) mandates the entry of summary judgement, after adequate time for discovery and upon motion, against a party who fails to make sufficient showing to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof at trial. In such a situation, there can be 'no genuine issue as to any material fact'.

3. Whether, for hiring discriminations, a further amendment[2] will strengthen the Title VII of Civil Rights Act of 1964 and the ADEA of 1967, as amended. The amendment should read as follows:

"Qualification in hiring discrimination is a genuine issue and as such all hiring discrimination complaints must be

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[2] A further amendment to the amendment of the ADEA of 1967.

submitted to a jury trial, or qualifications must be precluded."

At present defense counsels are bypassing the Supreme Court Opinion cited above in the section for the argument for the question No. 1. If this amendment is adopted, no defense counsel will be given a chance to bypass this amendmente.[3] As a result more and more plaintiff's will win their cases. Therefore, this amendment is a question of national importance to the Supreme Court to decide if, indeed "Qualification is a genuine issue" in hiring discrimination. If Supreme Court finds so, then there will be a permanent solution of the problems for the ever increasing minorities in America.

Title VII of Civil Rights Act of 1964, as amended says:

It shall be unlawful for an employer to refuse or fail to hire an individual, despite his/her qualifications, otherwise to discriminate an individual because the individual belongs to a protected group.

In the comparison of qualifications, exh._7_, it has been indisputably shown that plaintiff was better qualified Yet, he was not hired. Therefore, the district was unable to enforce the law and the appellate court affirmed it. None of these courts understood the comparison of qualifications in exh._7_. This is true.

4. Whether courts lack necessary qualifications to evaluate the qualifications of the candidates.

The courts do not possess, should not possess and are not required to possess necessary qualifications to evaluate

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[3] because it will be a very strong amendment.

the qualifications of the engineering candidates. Therefore, they are making mistakes and dismissing all complaints. This is the root cause of all dismissals of discrimination hiring complaints.

To day I am filling a writ of certiorari. I have thirteen more cases pending at the lower courts. In all the cases I have the same root cause: I am better qualified and belong to a protected group. Yet, I was not hired. Similarly, all the dismissals were made for the same root cause. Namely, the courts lack necessary qualification to evaluate the qualifications of the candidates. **For an example, no courts will understand exh._ 9 _**, which is the evluation of Aziz's qualifications by an employer, he applied to,

5. Whether, for hiring discriminations, another further amendment is feasible or needed to the existing 1993 Supreme Court Opinion shown below:

> There are two methods by which a plaintiff can attempt to prove potential discrimination. First, plaintiff may present direct evidence of employment discrimination. Second, the plaintiff can rely on the three stage order of proof and presumptions and satisfy his burden of proof using circumstantial evidence. *St. Mary's Honor Ctr. v. Hicks* 509 US 502, 506-12, 113 S. Ct. 2742 (1973).

The suggested amendment will read as follows:

"For discrimination in hiring, the direct method will be the direct application of Title VII of Civil Rights Act of 1964, as amended. In such an amendment, no circumstantial evidence will be needed."[4] The direct method consists of determina-

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[4] And there is no circumstantial evidence when the two allegations: (i)

tion of two issues.

(1) Whether plaintiff was better qualified.

(2) Whether plaintiff belongs to the protected group by virtue of his race and national origin.

The above amendment is actually a clarification of the terms, "methods" and "direct evidence". This clarification will eliminate the many different interpretations they may have. If the Hon. Supreme Court deliver such an opinion, the adjudication of complaints "for discrimination in hiring" will be much shorter and quicker resulting in judicial economy.

6. Whether the district court has applied the applicable law to adjudicate the case.

The answer is in the negative. The district court did not apply Title VII of Civil Rights Act of 1964, Rule 56(c) and the Supreme Court Opinion on Rule 56(c).

IX. QUESTIONS OF NATIONAL IMPORTANCE

1. The first and foremost question of national importance is that the courts lack necessary qualifications to evaluate the qualifications of the candidates. For this reason courts are incorrectly making erroneous decisions. This has been going on since the laws were enacted more than about 50 years ago. And millions of minorities have been denied of their rights in the mean time.

2. The Supreme Court must decide if, indeed, courts lack necessary qualifications. If it is so found, then the proposed

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A less qualified person was hired and (ii) I was unlawfully discriminated because I belong to the protected group by virtue of my age. These two allegations are established from documentary evidence.

amendments to the question No. 4 should be adopted.

3. Qualification" as used in the Title VII of Civil Rights of 1964 and ADEA of 1967, as amended, is, indeed, a genuine issue.

If it is a genuine issue, qualifications must be precluded pursuant to Rule 6(c) and the Supreme Court's Opinion on Rule 56(c).

According to Rule 56(c) substantiated by the Supreme Court Opinion, a defendant shall be awarded a summary judgment in its favor if there is no **genuine issue.** Since **qualification are a genuine issue** the defendant could not be awarded the summary judgment as a matter of law. But it was.

So, the courts have acted against the Rule 56(c) and the Supreme Court opinion on the Rule 56(c). The courts have also violated the law, Title VII of Civil Rights Act of 1964, as amended.

"Qualifications" are a genuine issue not only in this case but also in all the cases filed since the enactment of the laws.

Therefore, this is a question of national importance for the Supreme Court to decide if, indeed, **"qualifications"** are a genuine issue. The Supreme Court's decision will not only be important to me but also to all others similarly situated. **It is of national importance**, because (i) in every complaint qualifications are an issue and, (ii) they involves millions of minorities of the United States.

If the Supreme Court adopts the amendment of the question No. 3, its language is so strong that plaintiff's cases will not be dismissed by summary judgments.

"That courts do not possess necessary qualifications" is another question of national importance. If, indeed, "the courts do not possess necessary qualifications", they have been making **erroneous** decisions from the date of enactment of the laws. This is true. The judges possess qualifications in laws. So, they are qualified to handle cases in laws. But they do not possess qualifications in Engineering, Mathematics, Physics, etc. Therefore, they are not qualified to handle cases involving Engineering, Mathematics, Physics, etc. **Then the question arises,** "How are the judges going to handle cases involving Engineering, Mathematics, Physics, and Chemistry, etc? There are two answers.

The qualifications, those, cannot be handled by judges, (i) must be precluded," or (ii) the case must be submitted to a jury trial. Therefore, the Supreme Court should accept the amendment proposed in the question No. 3. If this amendment is adopted by the Supreme Court no more millions plaintiffs will be losing their legitimate claims totaling billions of dollars. This is the strongest argument in favor of national importance; and only one argument like this may be needed for the Supreme Court to grant the writ of certiorari.

During 1994-1996, I filed thirteen hiring discrimination complaints. All of them have been dismissed by summary judgments. In all of them I was indisputably better qualified than the selectee.[5] Yet, I was not hired.

X. ANOTHER QUESTION OF NATIONAL IMPORTANCE

Another question of national importance is that this appellate court decision is in conflict with many other appellate courts' decisions. For examples:

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[5] Of course, I belong to the protected group by virtue of my age, race and national origin.

Standard 1.

Summary judgment is appropriate only when there is no issue of material facts, so that the dispute may be decided solely on legal grounds. Holloway v. Lockhart, 813 F.2d 874 (8th Cir. 1987.

But in this case there are issues of material facts. Such facts are (i) the qualifications of the competing candidates and (ii) if plaintiff belongs to a protected group. So, summary judgment was not appropriate. Therefore, the D.C. circuit's decision is in conflict with the 8th circuit's decision.

Standard 2.

Only disputes over facts that may affect outcome of the suit under the governing law will properly preclude the sum-Mary judgment. *Anderson*, 477 US at 248

Clearly, the dispute over the above fact[6] will affect the outcome of the suit. Therefore, summary judgment in this case should have been properly precluded. Therefore, the D. Cir. decision is in conflict with the above decision.

Standard 3.

The Eighth Circuit Court of Appeals has cautioned that summary judgment should be invoked carefully so that no person will be improperly deprived of a trial of disputed factual issues. Inland Oil & Transport Co. v. United States, 600 F.2d 725 (8th Cir, 1979), certi. denied, 444 U. S. 991 (1979)

My two issues that I was better qualified and I belong to a protected group are not disputed factual issues. They are indisputable factual issues. Therefore, summary judgment

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[6] the courts do not possess, should not possess, or they are not required to possess the expertise to evaluate the qualifications of college graduates

was improperly granted. So, the D.C. circuit is in conflict with the 8th Cir.

Standard 4.

In considering a summary judgment standard motion, the court is required to accept as true all evidence presented by the non-moving party, and to draw all justifiable inferences from such evidence in that party's favor. Id. at 255.

In a summary judgment motion the defendant is the moving party and the plaintiff is the non-moving party.

According to the above standard the court is required to accept as true all evidence[7] and draw all justifiable inferences from such evidence. Using this summary judgment a plaintiff may win. If he/she does, the defendant still has a second chance at trial. If the defendant did not really unlawfully. discriminate the plaintiff, defendant would have won at the second chance (the trial).

On the other hand if the plaintiff's evidence is not accepted as true he/she may lose, then he/she will never get a second chance. But according to the above summary judgment standard if the evidence of plaintiff is accepted as true, then he/she gets a second chance at trial[8] This standard removes the inherent inequality between the plaintiff and the defendant in protecting their rights during summary judgment adjudication.

Thus, this standard gives equal opportunities to both parties. This interpretation is my innovation from creative thinking and I submit it to the Hon. Supreme Court.

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[7] but not if they are not evidence

[8] this philosophy is in consistence with the Supreme Court opinion on Rule 56(c).

Standard 5.

The court must accept as true all of the allegations in the pleadings and must give the plaintiff the benefit of every favorable inference that can be drawn from those allegations. Schrob v. Catterson 948 F.2d 1402, 1405 (3d Cir. 1991); Markowitz v. Northwest Land Co., 906 F.2d, 100, (3rd Cir 1990).

The district court did not accept my allegations as true. My allegations were (i) I was better qualified and (ii) I belong to the protected group by virtue of age. Had it not done so, it would submit the case to a jury trial. I would then have an equal opportunity to win. Thus, D.C. Cir. decision is in conflict with the third Cir decision. Therefore, the D. Cir. decision is in conflict with the Supreme Court opinion on FRCP 56(6).

Standard 6.

The burden is on the moving party is to show that record does not disclose a genuine dispute on a material fact.

Counts v, M.K. Ferguson Co., 862 F.2d 1338 (8th Cir. 1988).

A material fact is a relevant fact. That I was better qualified is a relevant fact, because this enters in to the litigation. Defendant did not show that there was no dispute on this material fact. Therefore, D.C. Cir. decision is in conflict with 8th Cir.

Standard 7

Supreme Court Opinion on FRCP 56 (c) says,

The plain language of Rule 56(c) mandates the entry of summary judgement, after adequate time for discovery

and upon motion, against a party who fails to make sufficient showing to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof at trial. In such a situation, there can be 'no genuine issue as to any material fact'.

Defendant did not demonstrate that plaintiff failed "to make sufficient showing to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof at trial." Therefore, the D. C. Cir. decision is in conflict with the Supreme Court opinion on FRCP 56(6). This is a serious conflict because all summary judgments are granted by Rule 56(c).

Standard 8.

In appraising the sufficiency of the complaint, we follow, of course, the accepted rule, that a complaint should not be dismissed for the failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts to support his claim that would entitle him to a relief.

Defendant did not show that "it appears beyond doubt that the plaintiff can prove no set of facts to support his claim that would entitle him to a relief." Therefore, the D. C. Cir. decision is in conflict with the above decision'

Standard 9.

A complaint is properly dismissed only if it appears certain that the plaintiff cannot prove any set of facts in support of his claim [at trial] which will entitle him to relief. Ransom v. Marrazzo, 848 F.2d 398, 401 (3rd Cir. 1988).

Defendant did not show that "it appears certain that the plaintiff cannot prove any set of facts in support of his [at trial] which will entitle him to relief." Therefore, D,C. Cir, decision is in conflict with the 3rd Cir. decision.

I have shown above nine examples of cases where the D. C. Circuit decision is in conflict with other circuits' decisions. From these examples I also conclude that

SUMMARY JUDGMENT WAS NOT APPROPRIATE

XI. ANSWER TO THE COURT OF APPEALS

The court of appeals' decision is exh._1_, which says, "No motion for reconsideration, rehearing, modification, clarification, stay of the mandate or other fillings shall be accepted in this closed docket."

There is no opportunity to answer.

XII. ANSWER TO THE DISTRICT COURT

From line 1, page 2a to line 12 of page 4a of the district court order, exh._2_, there is nothing relevant to the present case. Then from line 13 to line 115 of page 4a the court says: "(1) transcripts that he appears to have compiled himself and, then certified himself as to their accuracy, were sufficient to meet the defendant's request for certified transcripts, (2) spelling errors are no reasons to reject his application because every one makes spelling errors, and (3) the McDonnell Douglas v. Green framework is inappropriate for summary judgment proceedings."

These three items named by the district court are not the issues of this complaint. The issues of this complaint are:

(i) Breach of contract (ii) Obstruction of justice (iii) Concealment of truth (iv) Perjury and (iv) fraud.

The district court lost track and got confused. So, it made the decision for the first case, and not for the present case.

The district court referred to the McDonnell Douglas Framework, but forgot that McDonnell Douglas Framework is no longer valid. It has been outlawed by the following 1993 Supreme Court Opinion.

> There are two methods by which a plaintiff can attempt to prove potential discrimination. First, plaintiff may present direct evidence of employment discrimination. Second, the plaintiff can rely on the three stage order of proof and presumptions and satisfy his burden of proof using circumstantial evidence. *St. Mary's Honor Ctr. v. Hicks* 509 U.S. 502, 506-12, 113 S. Ct. 2742 (1973).

XIII. CONCLUSIONS

There are two conclusions:

1. That "The district courts do not possess necessary qualifications to evaluate the qualifications of engineering candidates".

2. The number two conclusion is derived from that qualification is a genuine issue pursuant to the following authorities:

(i) Rule 56(c):

The judgment shall be rendered forthwith, if the pleadings, depositions, and answers to interrogatories, and the admissions on files, together with affidavits, if any, show that here is no **genuine issue** as to any material fact as a matter of law, and that the party is entitled to a judgment as a matter of law.

(ii) Supreme Court Opinion on rule 56(c).

The plain language of Rule 56(c) mandates the entry of summary judgement, after adequate time for discovery and upon motion, against a party who fails to make sufficient showing to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof at trial. In such a situation, there can be 'no genuine issue as to any material fact'.

The Laws say:

It shall be unlawful for an employer to refuse or fail to hire an individual, despite his/her qualifications, or otherwise to discriminate an individual because the individual belongs to the protected group by virtue of his/her age, race, national original and religion.

A question arises. Does the above mean that district courts are not qualified to adjudicate employment hiring discrimination complaints? No, it does not. It only means that in all other cases the district courts have two options (i) summary judgments and (ii) jury trials. **And in the hiring discrimination complaints, the district courts have only one option, i.e., jury trials.** This is the No. 2 conclusion.

XIV. PRAYERS

WHEREFORE, for all the foregoing reasons this humble petitioner prays that this Honorable Supreme Court of the United States of America grant petitioner's writ of certiorari adopting the proposed amendments.

Respectfully submitted,

3-16-00 301-528-0241

Abdul Aziz, Ph.D., Petitioner Pro se, 19924 Lake Park Drive, Gemantown, MD 20874-1084

XVI. APPENDIX OF EXHIBITS

Nos.	Titles	Pages
1.	Appellate Court decision	1a
2.	District Court Order	2a
3.	Advertisement of the position	6a
4.	Employer's acknowledgment letter	7a
5.	Plaintiff's degree	8a
6.	Selectee's diploma	9a
7.	Comparison of qualifications	10a
8.	The ditrict court order of United States District Court of Aransas	11a
9.	Aziz's qualifications as evaluated by an employer	12a

EXHIBIT 1

FILED
JAN 25 2000
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

No. 99-36176
DC# CV-96-5720-RJB

ABDUL AZIZ,
Plaintiff-Appelant,

v.

ST. MARTINS'S COLLEGE,
Defendant-Appellee.

ORDER

Before: BEEZER, O'SCANNLAIN and THOMAS,
Circuit Judges

Upon review of the record and appellant's oprning brief, this court herby summarily affirms the district court's November 23, 1999 ordwer denying appellant's motion for relief from the 1997 judgment. See United States v. Hooton 693 F.2d 857 (9th Cir. 1982), (per curiam)(summary affirmance is appropriate where result is clear from the face of record).

No motions for reconsideration, rehearing, modification, clarification, stay of the mandate or other filings shall be accepted in this closed docket.

AFFIRMED.

Exhibit 2

UNITED STATES COURT OF APPEALS
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ABDUL AZIZ, Plaintiff	Case No. C96-5720RJB
v.	ORDER DENYING PLAINTIFF'S SECOND MOTION FOR RELIEF FROM JUDGEMENT
ST. MARTIN'S COLLEGE, Defendant	

This matter comes before the court on the plaintiff's second "Motion for Relief From Judgement or Order Pursuant to Rule 60(b) (6) [sic]" ("Second Motion for Relief From Judgement"). (Dkt. No.55). The court has considered the pleadings filed in support of the motion and the file herein.

SUMMARY OF PROCEDURAL HISTORY

On July 26, 1996. the plaintiff's filed his Complaint. On April 21,1997, the court entered it's Order Granting Defendant's Motion to Dismiss or Alternatively for Summary Judgment. (Dkt. No. 39) On the same date, the Judgement in a Civil Case was entered. (Dkt. No.40) On May 12,1997 the Plaintiff filed a "Request for Reconsid eration" ("Motion for Reconsideration") of the court's Order Granting Defendant's Motion to dismiss or Alternatively for Summary Judgement. (Dkt. No. 41.) On May 15,1997 the court entered its Order Denying reconsideration. (Dkt. No.42.)

On June 30,1997 the plaintiff filed a Notice of Appeal of the court's Orders with the United States Court of Appeals for the Ninth Circuit.

(Dkt. No.45.) The scope of review of the plaintiff's appeal was "limited to review of the recondiseration." (Dkt. No.45.)
On June 30,1998, the Ninth Circuit Court of Appeals affirmed this court's decision denying the plaintiff's Motion for reconsideration. (Dkt. No.47.)

On December 24,1998, the plaintiff filed a "Motion Seeking a Retrial. (Dkt. No.47.) On January 7,1998, this court entered it's Order Denying Motion Seeking a Retrial. (Dkt. No.48.) On January 26,1999, the plaintiff filed a Motion for Relief of Judgement [sic]." (Dkt No.50.) On August 20,1999, the court entered its Order Denying Motion for Relief from Judgement. (Dkt No.51.)

On September 24,1999, the plaintiff filed another Notice of Appeal with the Ninth circuit Court of Appeals, appealing this court's orders. (Dkt. No. 52.) On October 22,1999, the Ninth Circuit Court of Appeals dismissed the plaintiff's appeal for failure to file a timely notice of appeal. (Dkt. No.56.) On October 29,1999, the plaintiff filed his Second Motion for Relief from Judgement. which is the subject of this order. (Dkt. No.55.)

Discussion

This is a Title VIII employment discrimination case filed more than three years ago and dismissed more than two years ago because (1) the plaintiff failed to establish a prima facie case of discrimination, and (2) the defendant had articulated legitimate nondiscriminatory reasons for not hiring the plaintiff: plaintiff's application letter contained numerous gross spelling errors and plaintiff did not provide certified copies of his academic transcripts. (*See* Dkt. No.39.)

In his Second Motion for relief from Judgement, the plaintiff again asks the court grant him relief of judgement pursuant to rule 60(b)(6) states in relevant part:

> On Motion and upon such terms are just, the court may relieve a party or party's legal representative from a final judgement, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due dilegence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (wheather heretofore denominated intrinsic or extrinsic), misrepresentaion, or other miconduct of an adverse party; (4) the judgemen is void; (5) the judgement has been satisfied, released, or

or other misconduct of an adverse pary; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective applicaton, or (6) any other reasons, justifying relief from the operation of the judgment.*The motion shall be made within a reasonable time,* and for reasons (1), (2) and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation.

Fed. R. 60)(b) *(emphasis added).*

In his second motion for relief from judgment, plaintiff again asserts that he should granted relief from judgment because (1) transcripts that he appear to have compiled himself, and then certified himself as to their accuracy were sufficient to meet the defendant's request for certified transcripts, (*See*Dkt. No. 55, Exhibit 1), (2) spelling are no reasons to reject his application because every one makes spelling errors, (3) McDonnell Douglas Corp v. Green 411 U.S. 792 807 (1973) framework is inappropriate for summary judgment proceedings.

Plaintiff again has failed to show any reasons justifying relief from judgment. Furthermore the court's Order Granting defendant's motion to Dismiss or Alternatively to Summary Judgment was entered on April 21, 1997. Clearly a Motion for Relief from Judgment made over two (2) years and five (5) months after the court enters the judgment is not made within a *reasonable* time. Fed. R. Civ. P. 60(b)(6). For these reasons plaintiff's Motion for Relief from Judgment should be denied.

Accordingly it is hereby

ORDERED

(1) The plaintiff's "Motion for Relief of Judgment or Orer pursuant to Rule 60(b)(6)" (Dkt. No. 55) is DENIED. and

(2) The Clerk of the Court isinstruted to sebd uncertified copies of this order to all counselx of record and to any party's last known address.

DATED this 23rd day of Novemner 1999.

Sd/-_____
ROBERT J. BRYAN
U.S. DISGRICT COURT JUDGE

Please Post

LOGOS OF THE UNIVERSITY

Saint Martin's College
Assistant/Associate Professor of Mechanical Engineering

Position Description:

Full-time faculty position at the Assistant/Associate Professor level in the Mechanical Engineering Department, Fall 1995. Teaching responsibilities would across a broad range of mechanical engineering disciples with research interest in fluids/controls. Teaching load may include some pre-engineering courses such as statics, dynamics and mechanics of materials,

Qualifications:

Ph.D. in Mechanical Engineering or closely related field. MS in Mechanical Engineering will be considered. Professional Registration registration preferred.

Salary

Salary is dependent upon qualifications and experience.

The College:

Saint Martin's is a four-year independent college founded in 1895 by the Roman Catholic Order of Saint Benedict (the Benedictines). It offers an education that emphasizes personal growth and broad liberal arts background. The 350-acre wooded campus, located at the foot of the Puget Sound, is only three miles from Olympia, the State Capitol. It is 3o minutes by Interstate-5 from Tacoma and 60 miles from Seattle. The campus is within an hour-and-a half's drive

of the Pacific Ocean and the Cascade and Olympic Mountain ranges.

Application Information:

Application deadline: April 1, 1995. Applicants should send a letter of application, resume, official transcripts, and three letters of recommendation to

Faculty Administrative Assistant
Saint Martin's College
5300 Pacific Avenue SW
Lacey, Washington, 98503
EOE/AAE

EXHIBIT 4

LOGOS saint martin's college

5300 Pacific Ave. S.E. Lacey, Washington 99583-1297

An Equal Opportunity Employer and Educator

March 24, 1995

Abdul Aziz, Ph.D.
922 Edmonston Road
Greenbelt, MD 2077-1504

Dear Dr. Aziz:
Thank you for your interest in the Assistant/Associate Professor of mechanical Engineering position at Saint Martin's College. To date we have received the following

X Application Letter
X Resume
X Transcripts
X 3 Letters of Recommendation

Your file is complete and eligible for review. A description of the position is enclosed for your information.

Applicants will be notified for interviews approximately one to two weeks after the position closes.

Again thank you for your interest in teaching at St. Martin's.

Sincerely,

Sd/-

Richard L. Langhill, Ph, D.
Vice President for Academic Affairs

RLL/mg

EXHIBIT 5

My Ph.D.

The Board of Regents of the

University of Maryland

In recognition of the successful completion of the requisite course of study and on nomination of the Faculty of the

Graduate School

by virtue of authority granted by charter of the State of Maryland hereby confers upon

A. F. M. Abdul Aziz

the degree of

Doctor of Philosophy

with all the honors, rights and privileges thereunto appertaining. In witness whereof this Diploma signed by the authorized officers of the University and the seal of the University is affixed. Given at College Park on the third day of June in the year nineteen hundred seventy-two.

William J. N. Bellows
President

David S. Spade
Secretary

C. E. Bishop
Chancellor

Board of Regents

EXHIBIT 6 **10a**

TRANSLATION FROM THE POLISH ORIGINAL DOCUMENT

Embossed Polish Emblem
Polish People's Republic (Poland)
The State Polytechnic University of Krakow, Poland
College of Engineering

DIPLOMA

Mr. Jerry Keska, M.S. born February 14, 1945 in Wilkowisko Country of Limanowa,Poland has completed doctoral dissertation titled "An Electro Magnetic Method of Measurement of solids concentration of slurries, Transported in Pipes" and after passed obligatory examinations, has been awarded the title of

Doctor of Engineering Sciences

by the faculty of the College of Engineering of the State Polytechnic University of Krakow, Krakow, April 7, 1975; Embossed official seal of the Polytechnic University of Krakow. Poland.

Diploma # 1302

Translator's statement August 22. 1987

Translator: Jerry K. Keska

Hereby I certify that the above is a true and accurate of Polish original document.

Sd/- Jerry Keska

EXHIBIT 7

COMPARISON OF QUALIFICATIONS

1. Exh._ 4_ shows 4 application requirements. Plaintiff has met all of the 4 application requirements. The selectee has not met nos. 3 and 4 application requirements. So, he was disqualified for further consideration by the definition of application requirements.

Application requirements mean that if any candidate does not meet all the application requirements he/she is screened out by the Personnel Office. Their applications do not reach the V.P. Therefore, the selectee did not receive an acknowledge letter from the V.P.

EXHIBIT 8

IN THE UNITED STTES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

No. LR-C-96-843

ABDUL AZIZ,
Plaintiff,

v.

UNIVERSITY OF ARKANSAS
AT LITTLE ROCK,
Defendant.

ORDER

Pending before the court is Plaintif's pro se Motion for summary judgment in the above styled case. Plaintiff's complint alleges that he was not hired for a faculty position at the University of Arkansas at Little Rock (UALR) in violation of the Age Discrimination in Employment ACT (ADEA), and in violation of TitleVII based on race and national orign.

In this motion for summary judgment, plaintiff asks the Court to hold that a less qualified person was selected for the UALR. Plaintiff's request requires the court to make a factual decision on a genuine isue of material fact which is precluded pursuant to Federal Rule of Civil Procedure 56.

Plaintiff's motion for summary judgment (#10) is denied.

Sd/- James M. Moody

James M. Moody
United States District Judge